

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:07-cv-373-FDW
3:03-cr-55-FDW-DCK-1

THIS MATTER is before the Court on *pro se* Petitioner’s “Motion to Re-Open and/or Reconsider,” (Doc. 22), with regards to the Order denying his Motion to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody under 28 U.S.C. § 2255. See (Doc. No. 12).

Petitioner filed his § 2255 Motion to Vacate in the instant case on August 28, 2007. (Doc. No. 1). The Court denied § 2255 relief and granted the Government's Motion for Summary Judgment on December 17, 2007. (Doc. No. 12). The Fourth Circuit Court of Appeals denied a certificate of appealability and dismissed Petitioner's appeal on June 26, 2008. United States v. Jones, 282 Fed. Appx. 275 (4th Cir. 2008). Petitioner filed the instant Motion based on Rule 60(b) of the Federal Rules of Civil Procedure nearly a decade later on May 15, 2018. (Doc. No. 22).

Petitioner will be required to file a Memorandum Addressing Limitations within **14 days** of this Order explaining why his Rule 60(b) Motion is not time-barred. See generally United States v. McRae, 793 F.3d 392, 401 (4th Cir. 2015) (noting that the Rule 60(b)'s time limit is an affirmative defense). Petitioner's failure to comply may result in the denial of the Rule 60(b) Motion without further notice.

IT IS, THEREFORE, ORDERED that Petitioner shall file a Memorandum Addressing Limitations within **14 days** of this Order.

Signed: September 25, 2019



Frank D. Whitney
Chief United States District Judge

